

## Jury Is Discharged After Deadlock in 'The Masses' Case

Ten Reported to Have Voted for Conviction; 2 Held Out for Acquittal

### New Trial Set for June

John Reed Expected to Appear in Court To-morrow to Enter Plea

"We are utterly unable to agree on a verdict," this was the report made to Judge Augustus N. Hand, in the Federal District Court, yesterday, by the jury which heard the cases of Max Eastman, editor of "The Masses"; Floyd Dell, managing editor; Merrill Rogers, business manager, and Arthur Young, contributing cartoonist, who are charged with conspiracy to obstruct enlistment and recruiting in violation of the espionage law.

The jurors, who began hearing the testimony two weeks ago, had been deliberating since Thursday night. It was reported that ten of them were for conviction, while two held out for acquittal.

Judge Hand ordered a new trial set for the June term. Assistant District Attorney Earl Barnes said that John Reed, the writer, who was indicted as a co-conspirator, was expected back from Russia to-day or to-morrow, and that he would be added to the list of defendants. About the time that Reed was indicted it was announced at Petrus that he had been accredited by the Bolshevik government as Consul General, with headquarters in New York.

### Reed to Plead Not Guilty

Reed was not found, and the trial proceeded without him, but Mr. Barnes said he expected this defendant would appear in court to-morrow and plead "not guilty." As one of the contributors to "The Masses," Reed is charged with being one of the prime movers in the alleged conspiracy to use the magazine as a means of obstructing the government's war program.

The jurors made it emphatic that they could not agree. Three times, after they had been locked in the jury room, they asked Judge Hand for further instructions, and each time several of the jurors said they were "unable to agree." Judge Hand said he was reluctant to dismiss them until they had made every effort to agree. Just before noon a motion was usually vigorous knock on the jury room door announced that the jurors again wished to appear before Judge Hand. When they were brought in the foreman, William H. Coltrane, of Mount Vernon, a tea merchant said:

"Your honor, it is absolutely impossible for us to arrive at a verdict. We are hopelessly deadlocked, and we ask that we be discharged."

**Jurors in Bitter Debate**

"Ought we to divulge what went on in the jury room after we have been discharged?" asked Henry C. Fredericks, a juror.

"I do not think you should go into details," said Judge Hand.

It was reported that the deliberations of the jurors were particularly vehement, and some of them at the end became bitter toward the two men who insisted on holding out for an acquittal. It was said that these two men disclosed socialist tendencies.

After the jurors had gone, Morris Hilquit and Dudley Field Malone, counsel for the defense, asked that the new trial be set for late in the autumn. Mr. Barnes said the government was anxious to avoid delay, as other conspiracy cases were pending. The rehearing of "The Masses" cases then was ordered for the June term.

"It probably will be the end of June before 'The Masses' defendants are again brought up," said Mr. Barnes. "The case against Jeremiah A. O'Leary, publisher of 'Bull,' is set for May 6, but owing to the illness of Mr. O'Leary his trial will be postponed until May 20. Then 'The Masses' cases will follow."

**Defendants Seem Pleased**

"After that, probably in August, will come the case of Dr. Scott Nearing, who has been indicted in connection with the circulation of his pamphlet, 'The Great Madness.'"

Max Eastman and the other defendants seemed pleased with the outcome. "The verdict could have been only one degree better—acquittal," said Arthur Young. "It is apparent that the jurors were unwilling to convict us merely on the government's word that we had violated a law, for nothing in the evidence indicated either that we had entered into a conspiracy to obstruct recruiting and enlistment or that any of us individually had attempted to obstruct."

"We are unconvinced" by the government's evidence.

### Mercier Denounced Seizure by Germans

Belgian Declared Taking of Church Property Was a Sacrilege

[Staff Correspondence]

WASHINGTON, April 27.—The Belgian official information bureau issued the text of the letter of Cardinal Mercier, Archbishop of Malines, to the clergy and faithful of his diocese, in protest against the forcible seizure by the German authorities of Catholic Church property in Belgium. The letter, dated March 2, last, follows, in part:

"My Very Dear Brethren: The painful tidings, announced semi-officially on February 8 by the occupying power, have been confirmed. The bulletin of laws and edicts dated February 21 requires an inventory of the bells and organs of our churches. Informed by experience, we need not delude ourselves; the inventory of to-day is the signal for the requisition of to-morrow."

"In the execution of this duty of our pastoral office, we protest, dear brethren, against the injury which the forcible seizure of church property will cause to the liberty of our mother, the Holy Church."

"We add that the removal of the bells, without the consent of the religious authorities, and despite their protests, will be sacrilege."

"Yes, the seizure of our bells will be a profanation. Whoever assists in it will lend a hand to sacrilege."

"The Catholic Bishops of Germany and Austria will not deny these principles. If their patriotism has wronged them from the consequences which must have cost their religious spirit dearly, patriotism with us confirms, on the contrary, the law of resistance. We would be betraying the Church and the fatherland were we so cowardly as to permit, without a public act of reprobation, the taking away of metal to be converted by the enemy into engines of destruction destined to carry death into the ranks of the heroes who are sacrificing themselves for us."

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### Armenians in Fear Of Extermination

President of Delegation in Paris Confirms Reports of Wholesale Slaughter

PARIS, April 27.—Boghes Nubar Pacha, president of the Armenian national delegation, who is now in Paris, said to-day that he had received news from Armenia confirming the recent reports that Turkey was taking methodical measures to annihilate the race in every locality which the Turks have reconquered. All Armenians are being put to death, he stated, and unless it is possible to intervene at an early date the Armenian race may be exterminated.

The national delegation has issued an appeal to the civilized world, urging all peoples "to raise their voices before it is too late to prevent extermination of an old nation which has rendered so much service to civilization."

### Berlin Reports Extensive Outbreak in Transcaucasia

AMSTERDAM, April 27.—Extensive disturbances in Baku, Transcaucasia, are reported in a Berlin dispatch to the Associated Press. The exportation of petroleum to Black Sea ports has ceased, and it is reported that the oil wells have been destroyed.

## Washington Says Few Enemy Aliens Failed to Register

Department of Justice Issues Statement in Reply to Charges by White

### Calls Claim Nonsense

Denies 50,000 Germans in New York Evaded Taking of Fingerprints

[Staff Correspondence]

WASHINGTON, April 27.—The number of enemy aliens in New York City who have failed to register is inconsiderable, according to an official statement just issued by the Department of Justice, answering the charges made before the Senate Military Affairs Committee by Norman H. White. The statement was issued through the Committee on Public Information. It follows:

"On Friday last Norman H. White, who stated that he lived at Brookline, Mass., and was a civilian dollar-a-year

employee of the Military Intelligence Section, testifying before the Military Affairs Committee of the Senate, made the following statement: 'One of the New York papers the other day stated that in New York City alone, under the President's proclamation, there were 32,000 alien enemies that have declined to have their fingerprints taken. We figure there are nearer 50,000, and, gentlemen, there is nothing being done to register or fingerprint those alien enemies in New York City.'

### Statement Called Nonsense

"The registration of German male enemies over fourteen years of age has been completed by this department. Finger prints were taken from all alien enemies at the time of registration. The lists of those registered are being checked up against other sources of information as rapidly as possible, and the final result will be known within a couple of weeks. So far as this work has progressed it indicates that the number of alien enemies in New York City who failed to register is inconsiderable, and that the statement that there are between thirty and fifty thousand such is not only false but nonsense."

"White also stated in substance that he could cover the committee table with evidence in sedition cases in which nothing had been done, the effect of his statement being that the Department of Justice had not acted. The United States Attorney at New York informs the department that White has presented to that office but two cases. One of these was a case which had already been thoroughly investigated and found to be without merit. In the other case White recently submitted a memorandum and agreed to produce papers in support thereof, which he had not done at the time he appeared before the committee."

**Officials Abreast of Work**

"The officials of this department at

New York City report that they are practically abreast of their work."

The department recently established a special bureau for the Port of New York for alien enemy regulation which has received the cordial and active support of the Police Department, and no instances are known to it of dangerous alien enemies now at large in that city. If any citizen knows of such he should promptly report them either to the police or the Bureau of Alien Enemy Regulation in New York.

"False rumors and statements of the variety made by White have become so common that the department cannot be expected to categorically deny all of them."

"In the present instance unusual prominence was given to White's statement before the Military Affairs Committee, and it is felt that if uncontradicted these unjustifiable statements would inevitably produce disquiet and discontent among the public—particularly among those patriotic citizens who have sons and relatives in the army and navy."

### 2,000 Porto Rican Workers Enrolled for U. S. War Work

SAN JUAN, Porto Rico, April 6.—Two thousand skilled workmen have been registered in Porto Rico through the efforts of the United States Employment Service of the Department of Labor, and signified their willingness to go anywhere in the United States to aid in shipbuilding or any other essential war work.

F. C. Roberts, representing the Department of Labor here, made this statement yesterday. Besides skilled workmen, 10,000 unskilled workmen have been registered who are willing to go to the United States to work.

## New Move to Save Mooney Planned By His Attorney

Notice Given of Motion to Quash Death Sentence and Get New Trial

SAN FRANCISCO, April 27.—Removal of the death sentence imposed upon Thomas J. Mooney, a complete setting aside of all previous proceedings in his case and a new trial for him will be moved in court next Thursday on the

ground of wilful fraud and malfeasance in office on the part of District Attorney Charles M. Fickert and his assistants, it was announced here to-day by Maxwell McNutt, attorney for the condemned man.

Mooney was convicted of murder in connection with the Preparedness Day bomb explosion here on July 22, 1916. Accompanying the notice, which is intended to support the charges of fraud and malfeasance by the prosecution, McNutt said, will be affidavits by Mooney, William H. Smith, acting inspector of the Police Department of Oakland, Cal., and Frank E. Rigall, of Grayville, Ill., who alleged that attempts had been made to induce him to testify falsely against Mooney. Frank C. Oxman, of Oregon, material witness against Mooney, was acquitted of attempted subornation of perjury in connection with Rigall's charge.

An affidavit by Inspector Smith, according to McNutt, will corroborate an affidavit by Mooney that Mrs. Melie Edeau, a witness, who testified she saw Mooney and Warren K. Billings, an

other defendant, now serving a life sentence for one of the bomb murders, near the scene of the explosion, was unable to identify the two men whom she was brought to the city prison for that purpose.

Judge Griffin, before whom notice of the motion was presented, set May 2 as a date for hearing arguments as to affidavits. He said the procedure was "unusual."

Louis Ferrari, Assistant District Attorney, demanded the immediate setting of a date for Mooney's execution. "The court has lost jurisdiction in this case," he said. He asked that all affidavits and briefs by the defense be submitted to the District Attorney's office before being filed in court. This request was refused.

"If Judge Griffin does not rescind his order to death at the next calling of the case, May 2, I shall apply for a writ of mandamus from the State Supreme Court to compel him to do so," District Attorney Fickert said out of court.

Franklin Simon & Co. direct attention to their illustrated pages of Infants' and Children's Apparel, also Misses' Dresses in the Graphic section of to-day's "Tribune."

## Franklin Simon & Co.

Fifth Avenue, 37th and 38th Sts.

MONDAY—

## A SALE of HOSIERY

A Sale that provides an unusual opportunity to purchase high class Hosiery at before-war prices.

WE GUARANTEE THE WEAR OF ALL SILK HOSIERY

<b>Women's Thread Silk Hose</b> Pure Thread Silk, in black, white, gray, brown or shades to match shoes or gowns. 3 pairs for \$2.65	<b>Special .90</b>	<b>Women's Extra Size Silk Hose</b> Pure Thread Silk Hose, in black or white; lisle sole and top. 3 pairs for \$3.25	<b>Special 1.10</b>
<b>Women's Thread Silk Hose</b> Pure Thread Silk, in black or white; double heel, toe and garter top. Heretofore \$1.25 and \$1.50 3 pairs for \$3.35	<b>1.15</b>	<b>Hand Emb'd Clox Silk Hose</b> In black, white, brown, gray or tan; self or contrasting color, plain or novelty clox. Heretofore \$1.75 3 pairs for \$4.25	<b>1.45</b>
<b>Women's Lisle Hose</b> In black or white lisle (full fashioned), double heel, toe and garter top. Heretofore .50 6 pairs for \$2.15	<b>.37</b>	<b>Women's Silk Lisle Hose</b> Of superior quality silk lisle, also plain lisle (full fashioned); in black, white or tan; garter top. Heretofore .60 6 pairs for \$2.75	<b>.47</b>

### Men's Lisle, Cotton or Silk Sox

<b>Lisle or Cotton Sox</b> Silk Lisle Sox in black, white, tan, gray, navy or Palm Beach color; also cotton sox with linen heel and toe. Heretofore .30 6 pairs for \$1.20	<b>.21</b>	<b>Pure Thread Silk Sox</b> Extra quality pure thread silk sox in black, white, gray, tan or navy; extra strong heel, sole and toe. Heretofore .75 3 pairs for \$1.50	<b>.55</b>
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## Women's Summer Fashions

### Women's New Model Cape

For All Occasions

A new half-sleeve cape of duvetyn velour copied from one of our Paris models; in navy, chinchilla or black.

**Special 45.00**

### Women's Organdie Waists

Val. Lace Trimmed

A dainty summery waist, with tucked back and front; of delicate pink or white organdie; roll rever collar, front of waist and cuffs trimmed with triple rows of Val. lace ruffles.

**Special 7.95**

### Women's Organdie Dresses

Dainty Exclusive Models

Summer dresses in blue, pink, maize, lavender or white; surplice, vestee or tunic models, with fashionable short sleeves, wide sashes of organdie or ribbon.

**Special 29.50**

At Reduced Prices—Monday

## Women's Tailored Suits

Heretofore \$39.50 to \$49.50

Plain tailored or dressy suits in this season's smart models and colors; of men's wear serge, tricotine, covert, Poirer twill, gabardine, silvertone or checked worsteds.

No Credits

No Exchanges



Copy of an Agnes, Paris, Model Women's Foulard Silk Gown (Illustrated)

45.00

OF navy-and-white or black-and-white foulard silk, made over silk; front of dress veiled with plain color pleated Georgette; roll stole collar and cuffs of white satin trimmed with jet buttons.

Ready to take home—the new 4 1/4% Liberty Bonds in Fifty to a Thousand Dollar Denominations, Sold at the Franklin Simon & Co. Bond Booth

## Franklin Simon & Co.

Fifth Avenue, 37th and 38th Streets

Beginning Monday—

## Semi-Annual Underwear Sale

For Women and Misses

This semi-annual sale provides an unusual opportunity to purchase high-class underwear at before-war prices.

## Silk Crepe de Chine Underwear

<b>Crepe de Chine Nightgowns</b> Sleeveless tailored model, in flesh color; hemstitched folds. 3.75	<b>Crepe de Chine Chemises</b> Envelope model, in flesh or white, shirred and hemstitched. 1.85
<b>Crepe de Chine Nightgowns</b> Sleeveless Empire model, in flesh or white, Val. lace trimmed. 5.75	<b>Crepe de Chine Chemises</b> Envelope model, in flesh or white, yoke of Calais lace, ribbon trimmed. 2.95
<b>Crepe de Chine Nightgowns</b> In flesh or white; Georgette, Val. lace and ribbon trimmed. 7.50	<b>Crepe de Chine Bloomers</b> Our "Parfait" make, in flesh or white; pleated ruffle; reinforced. 2.95
<b>Crepe de Chine Pajamas</b> One-piece Empire pajama, in flesh or white hemstitched. 4.95	<b>Crepe de Chine Bodices</b> In flesh or white; Val. lace, ribbon and flower trimmed. 1.95
<b>Crepe de Chine Pajamas</b> Two-piece; in flesh, blue, maize or orchid; satin bands of contrasting color. 7.95	<b>Crepe de Chine Combinations</b> A "step-in" combination in flesh color; hemstitched and ribbon trimmed. 5.50
<b>Crepe de Chine Pajamas</b> One-piece pajama, in flesh or blue, with wide surplice silk-fringed sash. 8.50	<b>Crepe de Chine Princess Slips</b> In flesh, blue or white; bodice and accordion pleated flounce, Val. lace trimmed. 7.95



Entirely Hand-Made and Real Baby Irish Lace Trimmed Women's Crepe de Chine Nightgown Combined with Georgette Crepe 15.75

ILLUSTRATED in this dainty sleeveless nightgown in flesh or white silk crepe de Chine; Empire top of Georgette crepe with wide bands of real Baby Irish lace; ribbon ties into bows at sides.

## Semi-Annual Sale French Underwear

Of sheer fabrics, hand-embroidered

<b>French Hand-Emb'd Nightgowns</b> Of sheer Nainsook, hand emb'd in eyelet and spray design. 2.95	<b>French Hand-Emb'd Nightgowns</b> Sleeveless model, of sheer Nainsook; hand scalloped and embroidered. 4.95
<b>French Hand-Made Chemises</b> Envelope model, of sheer Nainsook; hand embroidered, Val. lace trimmed. 3.95	<b>French Hand-Made Chemises</b> Of fine Nainsook; hand scalloped and Val. lace trimmed. 1.95
<b>French Hand-Emb'd Petticoats</b> Of Nainsook; hand emb'd scalloped flounce; scalloped underlay. 3.95	<b>French Hand-Scalloped Drawers</b> Straight model, of Nainsook, with hand-scalloped edge. 1.45

## Semi-Annual Sale Philippine Underwear

Entirely hand-made, hand-embroidered

<b>Philippine Hand-Made Nightgowns</b> Of sheer Nainsook, hand embroidered and hand scalloped. 1.95	<b>Philippine Hand-Made Nightgowns</b> Sleeveless model, of sheer Nainsook; Colado design, hand embroidered. 2.95
<b>Philippine Hand-Made Nightgowns</b> V neck model, of fine Nainsook; hand embroidered in butterfly design. 3.95	<b>Philippine Hand-Made Nightgowns</b> Empire model, of fine Nainsook; hand emb'd, pin tucked, ribbon trimmed. 4.95
<b>Philippine Hand-Made Chemises</b> Envelope model, of sheer Nainsook hand embroidered and scalloped. 1.95	<b>Philippine Hand-Made Chemises</b> Envelope model, of sheer Nainsook; Colado design and hand embroidered. 2.95

WOMEN'S UNDERWEAR SHOP—Balcony Floor.